

this title shall apply. The provisions of part 5, Subpart E, of this title concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and concerning deferral of termination of assistance also shall apply.

[60 FR 14846, Mar. 20, 1995, as amended at 65 FR 16724, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16724, Mar. 29, 2000, § 886.128 was amended by removing “24 CFR parts 247 and 812” and adding “parts 247 and 5 of this title” and removing “24 CFR 812.10” and adding “part 5, subpart E, of this title” in their places, respectively, effective Apr. 28, 2000.

§ 886.129 Leasing to eligible families.

(a) *Availability of units for occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 886.121; (2) has leased or is making good faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to HUD. If the owner is temporarily unable to lease all units for which assistance is committed under the Contract to eligible families, one or more units may be leased to ineligible families with the prior approval of HUD. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of number of units covered by Contract.* HUD may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD to lease such units to ineligible families, HUD determines that the inability to lease units to eligible families is not a temporary problem.

(c) *Restoration.* HUD will agree to an amendment of the Contract to provide for subsequent restoration of any reduction made pursuant to paragraph (b) of this section if:

(1) HUD determines that the restoration is justified by demand;

(2) The owner otherwise has a record of compliance with his or her obligations under the Contract; and

(3) Contract and budget authority are available.

(d) *Applicability.* Paragraphs (a) and (b) of this section apply to Contracts executed on or after October 3, 1984.

(e) *Termination of assistance for failure to establish citizenship or eligible immigration status.* If an owner subject to paragraphs (a) and (b) of this section is required to terminate housing assistance payments for the family in accordance with part 5, subpart E, of this title because the owner determines that the entire family does not have U.S. citizenship or eligible immigration status, the owner may allow continued occupancy of the unit by the family without Section 8 assistance following the termination of assistance, or if the family constitutes a mixed family, as defined in part 5, subpart E, of this title, the owner shall comply with the provisions of part 5, subpart E, of this title concerning assistance to mixed families, and deferral of termination of assistance.

[49 FR 31399, Aug. 7, 1984, as amended at 53 FR 847, Jan. 13, 1988; 53 FR 6601, Mar. 2, 1988; 60 FR 14846, Mar. 20, 1995; 65 FR 16724, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16724, Mar. 29, 2000, § 886.129 paragraph (e) was amended by removing “24 CFR 812.9” and “24 CFR 812.10” and adding “part 5, subpart E, of this title” in their places, effective Apr. 28, 2000.

§ 886.130 HUD review of contract compliance.

HUD will review project operation at such intervals as it deems necessary to

§ 886.131

ensure that the Owner is in full compliance with the terms and conditions of the Contract. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

§ 886.131 Audit.

(a) Where a State or local government is the eligible owner of a project, or is a contract administrator under § 886.120, receiving financial assistance under this part, the audit requirements in 24 CFR part 44 shall apply.

(b) Where a nonprofit organization is the eligible owner of a project, receiving financial assistance under this part, the audit requirements of 24 CFR part 45 shall apply.

[50 FR 39092, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986, as amended at 57 FR 33257, July 27, 1992]

§ 886.132 Tenant selection.

Sections 5.653 through 5.661 of this title govern selection of tenants and occupancy requirements applicable under this subpart A.

[65 FR 16724, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16724, Mar. 29, 2000, § 886.132 was revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 886.132 Selection preferences.

Sections 5.410 through 5.430 of this title govern the use of preferences in the selection of tenants under this subpart A.

[61 FR 9047, Mar. 6, 1996]

§ 886.138 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, owners shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organization, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided;

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in con-

24 CFR Ch. VIII (4–1–00 Edition)

nection with the temporary relocation, including the cost of moving to and from the temporary housing and any increase in monthly rent/utility costs; and

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;

(iii) The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the rehabilitation; and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* A “displaced person” (as defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24. A “displaced person” shall be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601–19), and, if the representative comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority person is located in an area of minority concentration, such person also shall be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

(d) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(e) *Appeals.* A person who disagrees with the Owner’s determination concerning whether the person qualifies as a “displaced person,” or the amount of relocation assistance for which the person is found to be eligible, may file a written appeal of that determination with the owner. A low-income person